

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 14, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:08od-001

OAHU

Grant of Term, Non-Exclusive Easement to Sarajeon A.
Tokunaga, Trustee for Seawall and Filled Land Purposes,
Kaneohe, Koolaupoko, Oahu, Tax Map Key: (1) 4-5-047:116
seaward.

APPLICANT:

Sarajeon A. Tokunaga, Trustee, whose mailing address is 327 South
Alu Road, Wailuku, Hawaii 96793.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located in Kaneohe, Koolaupoko, Oahu,
identified by Tax Map Key: (1) 4-5-047:116 seaward, as shown on
the attached map labeled Exhibit A.

AREA:

501 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: YES _____ NO X

CURRENT USE STATUS:

Unencumbered with encroachments.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace and remove existing seawall and filled land over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Staff observed the subject seawall and filled land and determined it appeared to be built before 1974 based on an aerial photo dated 1967, prior to the enactment of the EIS law and this action is therefore exempt from Chapter 343.

DCCA VERIFICATION:

Not applicable. The Applicant as a landowner is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine one-time payment; and
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The owner participated in the Kaneohe Bay Piers Amnesty Program, and a pier lease was issued subsequently. During the process, the subject encroachment (seawall and filled land) was noted on the shoreline survey map (Exhibit B).

At the date of writing this submittal, Department of Planning and Permitting, Department of Facility Maintenance and Commission on Water Resource Management indicate that they have no objections to the subject request. Staff understands Office of Conservation and Coastal Lands has no objections to the request.

Meanwhile, Department of Health, Board of Water Supply, Division of Aquatic Resource, and Division of Historic Preservation have

not submitted any comments.

Pursuant to the Board's action of June 28, 2002, under agenda item D-17 which established criteria for imposing fines for encroachments, staff is recommending a fine of \$500 as the subject encroachment is over 100 square feet.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

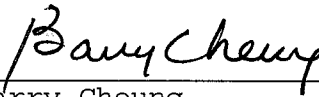
There are no other pertinent issues or concerns, and staff has no objections to the subject request.

RECOMMENDATION: That the Board:

1. Impose a \$500 fine for illegal encroachment, under Section 171-6(12).
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 4-5-047:116, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term, non-exclusive easement to Sarajeon Tokunaga, Trustee covering the subject area for seawall and filled land purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (1) 4-5-047:116, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
 - C. Review and approval by the Department of the Attorney General; and

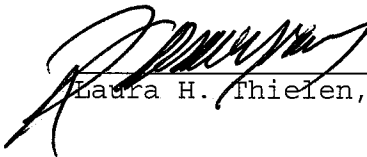
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- E. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement

Respectfully Submitted,




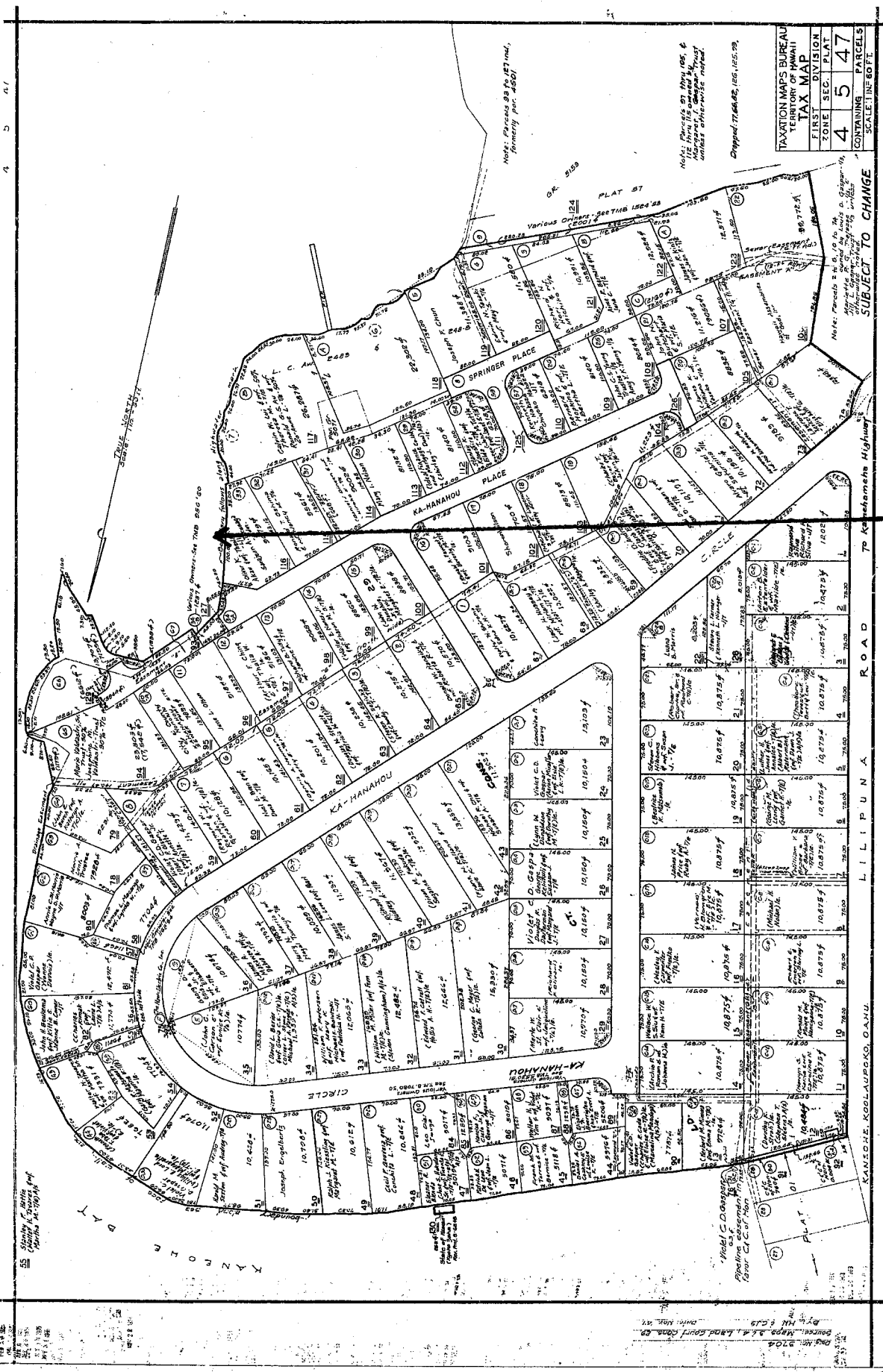
Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





TAXATION MAPS BUREAU TERRITORY OF HAWAII TAX MAP			
FIRST	DIVISION	ZONE	SEC. PLAT
4	5	47	
CONTAINING PARCELS			
SCALE: 1 INCH = 60 FEET			

SUBJECT TO CHANGE

Subject Location

LOT 33
(Map 6)

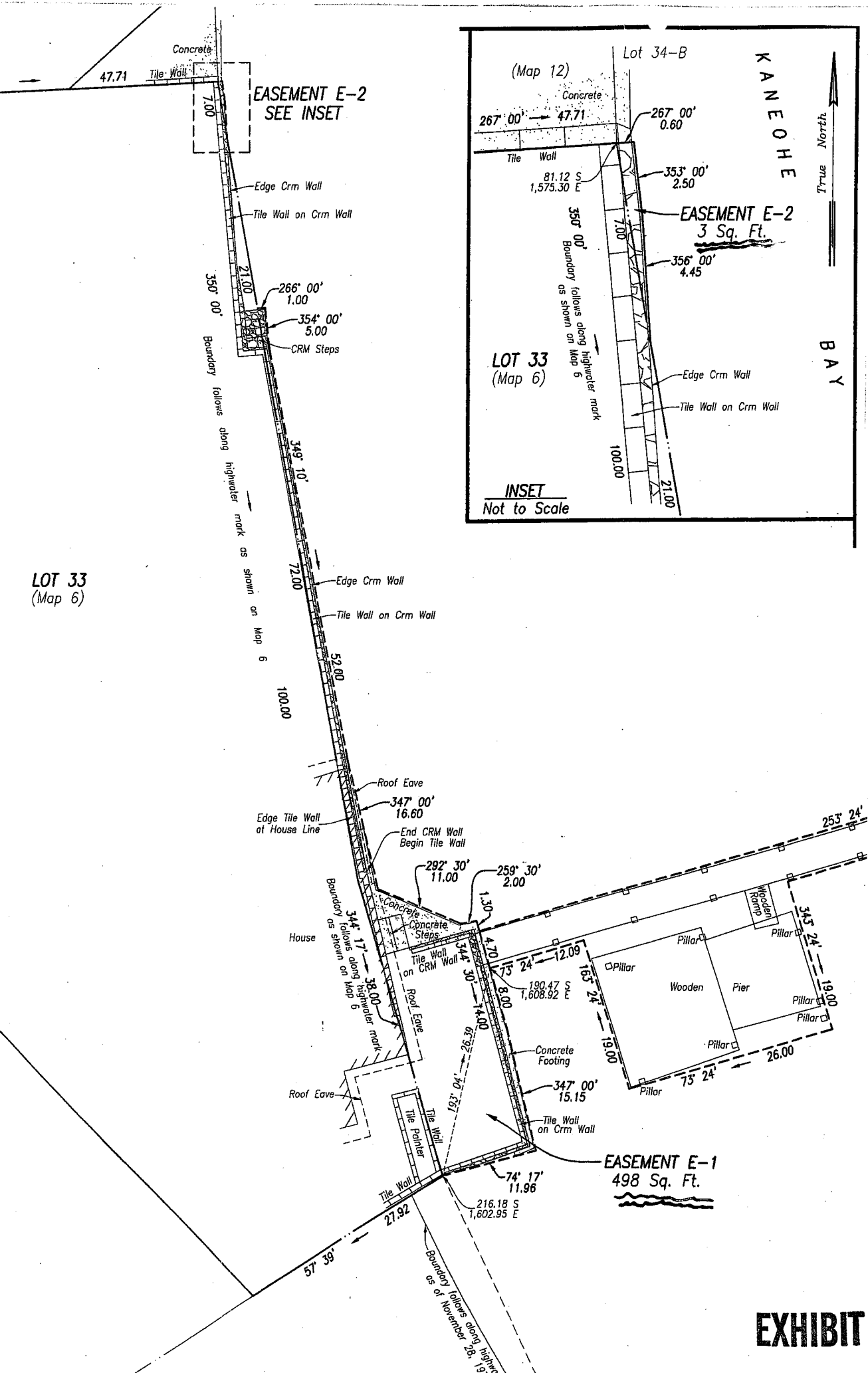


EXHIBIT "B"